

**Introduced by Senator Poochigian**

February 22, 2005

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An act to amend Sections 60611 and 60642 of, and to amend and repeal Sections 60603, 60604, 60605, 60605.6, 60606, 60640, 60643, and 60643.1 of, the Education Code, relating to pupil assessment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 755, as introduced, Poochigian. Pupil assessment.

(1) Existing law, the Leroy Greene California Assessment of Academic Achievement Act, requires each school district, charter school, and county office of education to administer certain achievement tests to each of its pupils in grades 2 to 11, inclusive, until July 1, 2007, and to each of its pupils in grades 3 to 11, inclusive, after July 1, 2007.

This bill would extend the administration of those tests to pupils in grades 2 to 11, inclusive, to July 1, 2011, and would repeal the provisions that require those tests be administered to pupils in grades 3 to 11, inclusive, after July 1, 2007. The bill would make conforming changes. By extending those tests to pupils in grade 2 after July 1, 2007, the bill would impose a state-mandated local program.

(2) Existing law, the Standardized Testing and Reporting (STAR) Program, requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, a standards-based achievement test.

Existing law requires a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take a test in his or her primary language if a test is available and if fewer than 12 months

have elapsed after his or her initial enrollment in any public or nonpublic school.

This bill would instead require a pupil identified as limited English proficient pursuant to a specified test who is enrolled in any of grades 2 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months, to take a test in his or her primary language if a test is available.

This bill would require the Superintendent of Public Instruction, with the approval of the State Board of Education, to annually release to the public at least 25% of test items from the standards-based achievement test from the test administered in the previous year.

(3) This bill would reappropriate the sum of \$2,285,000 from the Proposition 98 Reversion Account to the State Department of Education to cover costs incurred during the 2004-05 fiscal year to maintain and score the direct writing assessment for grades 4 and 7 under the STAR Program.

(4) This bill would make other technical, clarifying, and conforming changes.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 60603 of the Education Code, as
- 2 amended by Section 3 of Chapter 233 of the Statutes of 2004, is
- 3 amended to read:
- 4 60603. (a) As used in this chapter:

(1) “Achievement test” means any standardized test that measures the level of performance that a pupil has achieved in the core curriculum areas.

(2) “Assessment of applied academic skills” means a form of assessment that requires pupils to demonstrate their knowledge of, and ability to apply, academic knowledge and skills in order to solve problems and communicate. It may include, but is not limited to, writing an essay response to a question, conducting an experiment, or constructing a diagram or model. An assessment of applied academic skills may not include assessments of personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(3) “Basic academic skills” means those skills in the subject areas of reading, spelling, written expression, and mathematics that provide the necessary foundation for mastery of more complex intellectual abilities, including the synthesis and application of knowledge.

(4) “Content standards” means the specific academic knowledge, skills, and abilities that all public schools in this state are expected to teach and all pupils expected to learn in each of the core curriculum areas, at each grade level tested.

(5) “Core curriculum areas” means the areas of reading, writing, mathematics, history-social science, and science.

(6) “Diagnostic assessment” means interim assessments of the current level of achievement of a pupil that serves both of the following purposes:

(A) The identification of particular academic standards or skills a pupil has or has not yet achieved.

(B) The identification of possible reasons that a pupil has not yet achieved particular academic standards or skills.

(7) “Direct writing assessment” means an assessment of applied academic skills that requires pupils to use written expression to demonstrate writing skills, including writing mechanics, grammar, punctuation, and spelling.

(8) “End of course exam” means a comprehensive and challenging assessment of pupil achievement in a particular subject area or discipline.

(9) “Performance standards” are standards that define various levels of competence at each grade level in each of the curriculum areas for which content standards are established.

1 Performance standards gauge the degree to which a pupil has met  
2 the content standards and the degree to which a school or school  
3 district has met the content standards.

4 (10) “Publisher” means a commercial publisher or any other  
5 public or private entity, other than the department, which is able  
6 to provide tests or test items that meet the requirements of this  
7 chapter.

8 (11) “Statewide pupil assessment program” means the  
9 systematic achievement testing of pupils in grades 2 to 11,  
10 inclusive, pursuant to the standardized testing and reporting  
11 program under Article 4 (commencing with Section 60640) and  
12 the assessment of basic academic skills and applied academic  
13 skills, administered to pupils in grade levels specified in  
14 subdivision (c) of Section 60605, required by this chapter in all  
15 schools within each school district by means of tests designated  
16 by the ~~State Board of Education~~ *state board*.

17 (b) This section shall become inoperative on July 1, ~~2007,~~  
18 ~~2011,~~ and, as of January 1, ~~2008,~~ ~~2012,~~ is repealed, unless a later  
19 enacted statute, that becomes operative on or before January 1,  
20 ~~2008,~~ ~~2012,~~ deletes or extends the dates on which it becomes  
21 inoperative and is repealed.

22 SEC. 2. Section 60603 of the Education Code, as added by  
23 Section 4 of Chapter 233 of the Statutes of 2004, is repealed.

24 ~~60603. (a) As used in this chapter:~~

25 ~~(1) “Achievement test” means any standardized test that~~  
26 ~~measures the level of performance that a pupil has achieved in~~  
27 ~~the core curriculum areas.~~

28 ~~(2) “Assessment of applied academic skills” means a form of~~  
29 ~~assessment that requires pupils to demonstrate their knowledge~~  
30 ~~of, and ability to apply, academic knowledge and skills in order~~  
31 ~~to solve problems and communicate. It may include, but is not~~  
32 ~~limited to, writing an essay response to a question, conducting an~~  
33 ~~experiment, or constructing a diagram or model. An assessment~~  
34 ~~of applied academic skills may not include assessments of~~  
35 ~~personal behavioral standards or skills, including, but not limited~~  
36 ~~to, honesty, sociability, ethics, or self-esteem.~~

37 ~~(3) “Basic academic skills” means those skills in the subject~~  
38 ~~areas of reading, spelling, written expression, and mathematics~~  
39 ~~that provide the necessary foundation for mastery of more~~

1 complex intellectual abilities, including the synthesis and  
2 application of knowledge.

3 (4) “Content standards” means the specific academic  
4 knowledge, skills, and abilities that all public schools in this state  
5 are expected to teach and all pupils expected to learn in each of  
6 the core curriculum areas, at each grade level tested.

7 (5) “Core curriculum areas” means the areas of reading,  
8 writing, mathematics, history-social science, and science.

9 (6) “Diagnostic assessment” means frequent, interim  
10 assessments of the current level of achievement of a pupil that  
11 serves both of the following purposes:

12 (A) The identification of particular academic standards or  
13 skills a pupil has or has not yet achieved.

14 (B) The identification of possible reasons that a pupil has not  
15 yet achieved particular academic standards or skills.

16 (7) “Direct writing assessment” means an assessment of  
17 applied academic skills that requires pupils to use written  
18 expression to demonstrate writing skills, including writing  
19 mechanics, grammar, punctuation, and spelling.

20 (8) “End of course exam” means a comprehensive and  
21 challenging assessment of pupil achievement in a particular  
22 subject area or discipline.

23 (9) “Performance standards” are standards that define various  
24 levels of competence at each grade level in each of the  
25 curriculum areas for which content standards are established.  
26 Performance standards gauge the degree to which a pupil has met  
27 the content standards and the degree to which a school or school  
28 district has met the content standards.

29 (10) “Publisher” means a commercial publisher or any other  
30 public or private entity, other than the department, which is able  
31 to provide tests or test items that meet the requirements of this  
32 chapter.

33 (11) “Statewide pupil assessment program” means the  
34 systematic achievement testing of pupils in grades 3 to 11,  
35 inclusive, pursuant to the standardized testing and reporting  
36 program under Article 4 (commencing with Section 60640) and  
37 the assessment of basic academic skills and applied academic  
38 skills, administered to pupils in grade levels specified in  
39 subdivision (c) of Section 60605, required by this chapter in all

1 ~~schools within each school district by means of tests designated~~  
2 ~~by the State Board of Education.~~

3 ~~(b) This section shall become operative on July 1, 2007.~~

4 SEC. 3. Section 60604 of the Education Code, as amended by  
5 Section 5 of Chapter 233 of the Statutes of 2004, is amended to  
6 read:

7 60604. (a) The Superintendent ~~of Public Instruction~~ shall  
8 design and implement, consistent with the timetable and plan  
9 required pursuant to subdivision (b), a statewide pupil assessment  
10 program consistent with the testing requirements of this article in  
11 accordance with the objectives set forth in Section 60602. That  
12 program shall include all of the following:

13 (1) A plan for producing valid, reliable, and comparable  
14 individual pupil scores in grades 2 to 11, inclusive, and a  
15 comprehensive analysis of these scores based on the results of  
16 the achievement test designated by the ~~State Board of Education~~  
17 *state board* that assesses a broad range of basic academic skills  
18 pursuant to the Standardized Testing and Reporting (STAR)  
19 Program established by Article 4 (commencing with Section  
20 60640).

21 (2) A method of working with publishers to ensure valid,  
22 reliable, and comparable individual, grade-level, school-level,  
23 district-level, county-level, and statewide scores in grades 2 to  
24 11, inclusive, that is based on the achievement test designated  
25 pursuant to subdivision (b) of Section 60605.

26 (3) Statewide academically rigorous content and performance  
27 standards that reflect the knowledge and skills that pupils will  
28 need in order to succeed in the information-based, global  
29 economy of the 21st century. These skills shall not include  
30 personal behavioral standards or skills, including, but not limited  
31 to, honesty, sociability, ethics, or self-esteem.

32 (4) A statewide system that provides the results of testing in a  
33 manner that reflects the degree to which pupils are achieving the  
34 academically rigorous content and performance standards  
35 adopted by the state board.

36 (5) The alignment of assessment with the statewide  
37 academically rigorous content and performance standards  
38 adopted by the state board.

39 (6) The active, ongoing involvement of parents, classroom  
40 teachers, administrators, other educators, governing board

1 members of school districts, and the public in all phases of the  
2 design and implementation of the statewide pupil assessment  
3 program.

4 (7) The development of a contract or contracts with a  
5 publisher or publishers, after the approval of statewide  
6 academically rigorous content standards by the state board, for  
7 the development of performance standards and assessments of  
8 applied academic skills designed to test pupils' knowledge of  
9 academic skills and abilities to apply that knowledge and those  
10 skills in order to solve problems and communicate.

11 (b) ~~The superintendent~~ *Superintendent* shall develop and  
12 annually update for the Legislature a five-year cost projection,  
13 implementation plan, and timetable for implementing the  
14 program described in subdivision (a). The annual update shall be  
15 submitted on or before March 1 of each year to the chairperson  
16 of the fiscal subcommittee considering budget appropriations in  
17 each house. The update shall explain any significant variations  
18 from the five-year cost projection for the current year budget and  
19 the proposed budget.

20 (c) ~~The superintendent~~ *Superintendent* shall provide each  
21 school district with guidelines for professional development that  
22 are designed to assist classroom teachers to use the results of the  
23 assessments administered pursuant to this chapter to modify  
24 instruction for the purpose of improving pupil learning. These  
25 guidelines shall be developed in consultation with classroom  
26 teachers and approved by the state board before dissemination.

27 (d) ~~The superintendent~~ *Superintendent* and the state board  
28 shall consider comments and recommendations from school  
29 districts and the public in the development, adoption, and  
30 approval of assessment instruments.

31 (e) The results of the achievement test administered pursuant  
32 to Article 4 (commencing with Section 60640) shall be returned  
33 to the school district within the period of time specified by the  
34 state board.

35 (f) This section shall become inoperative on July 1, ~~2007,~~  
36 ~~2011,~~ and, as of January 1, ~~2008,~~ *2012*, is repealed, unless a later  
37 enacted statute, that becomes operative on or before January 1,  
38 ~~2008,~~ *2012*, deletes or extends the dates on which it becomes  
39 inoperative and is repealed.

1 SEC. 4. Section 60604 of the Education Code, as added by  
2 Section 6 of Chapter 233 of the Statutes of 2004, is repealed.

3 ~~60604. (a) The Superintendent of Public Instruction shall~~  
4 ~~design and implement, consistent with the timetable and plan~~  
5 ~~required pursuant to subdivision (b), a statewide pupil assessment~~  
6 ~~program consistent with the testing requirements of this article in~~  
7 ~~accordance with the objectives set forth in Section 60602. That~~  
8 ~~program shall include all of the following:~~

9 ~~(1) A plan for producing valid, reliable, and comparable~~  
10 ~~individual pupil scores in grades 3 to 11, inclusive, and a~~  
11 ~~comprehensive analysis of these scores based on the results of~~  
12 ~~the achievement test designated by the State Board of Education~~  
13 ~~that assesses a broad range of basic academic skills pursuant to~~  
14 ~~the Standardized Testing and Reporting (STAR) Program~~  
15 ~~established by Article 4 (commencing with Section 60640).~~

16 ~~(2) A method of working with publishers to ensure valid,~~  
17 ~~reliable, and comparable individual, grade-level, school-level,~~  
18 ~~district-level, county-level, and statewide scores in grades 3 to~~  
19 ~~11, inclusive, that is based on the achievement test designated~~  
20 ~~pursuant to subdivision (b) of Section 60605.~~

21 ~~(3) Statewide academically rigorous content and performance~~  
22 ~~standards that reflect the knowledge and skills that pupils will~~  
23 ~~need in order to succeed in the information-based, global~~  
24 ~~economy of the 21st century. These skills shall not include~~  
25 ~~personal behavioral standards or skills, including, but not limited~~  
26 ~~to, honesty, sociability, ethics, or self-esteem.~~

27 ~~(4) A statewide system that provides the results of testing in a~~  
28 ~~manner that reflects the degree to which pupils are achieving the~~  
29 ~~academically rigorous content and performance standards~~  
30 ~~adopted by the state board.~~

31 ~~(5) The alignment of assessment with the statewide~~  
32 ~~academically rigorous content and performance standards~~  
33 ~~adopted by the state board.~~

34 ~~(6) The active, ongoing involvement of parents, classroom~~  
35 ~~teachers, administrators, other educators, governing board~~  
36 ~~members of school districts, and the public in all phases of the~~  
37 ~~design and implementation of the statewide pupil assessment~~  
38 ~~program.~~

39 ~~(7) The development of a contract or contracts with a~~  
40 ~~publisher or publishers, after the approval of statewide~~

1 academically rigorous content standards by the state board, for  
2 the development of performance standards and assessments of  
3 applied academic skills designed to test pupils' knowledge of  
4 academic skills and abilities to apply that knowledge and those  
5 skills in order to solve problems and communicate.

6 (b) ~~The superintendent shall develop and annually update for~~  
7 ~~the Legislature a five-year cost projection, implementation plan,~~  
8 ~~and timetable for implementing the program described in~~  
9 ~~subdivision (a). The annual update shall be submitted on or~~  
10 ~~before March 1 of each year to the chairperson of the fiscal~~  
11 ~~subcommittee considering budget appropriations in each house.~~  
12 ~~The update shall explain any significant variations from the~~  
13 ~~five-year cost projection for the current year budget and the~~  
14 ~~proposed budget.~~

15 (c) ~~The superintendent shall provide each school district with~~  
16 ~~guidelines for professional development that are designed to~~  
17 ~~assist classroom teachers to use the results of the assessments~~  
18 ~~administered pursuant to this chapter to modify instruction for~~  
19 ~~the purpose of improving pupil learning. These guidelines shall~~  
20 ~~be developed in consultation with classroom teachers and~~  
21 ~~approved by the state board before dissemination.~~

22 (d) ~~The superintendent and the state board shall consider~~  
23 ~~comments and recommendations from school districts and the~~  
24 ~~public in the development, adoption, and approval of assessment~~  
25 ~~instruments.~~

26 (e) ~~The results of the achievement test administered pursuant~~  
27 ~~to Article 4 (commencing with Section 60640) shall be returned~~  
28 ~~to the school district within the period of time specified by the~~  
29 ~~state board.~~

30 (f) ~~This section shall become operative July 1, 2007.~~

31 SEC. 5. Section 60605 of the Education Code, as amended by  
32 Section 7 of Chapter 233 of the Statutes of 2004, is amended to  
33 read:

34 60605. (a) (1) (A) Not later than January 1, 1998, the State  
35 Board of Education *state board* shall adopt statewide  
36 academically rigorous content standards, pursuant to the  
37 recommendations of the Commission for the Establishment of  
38 Academic Content and Performance Standards, in the core  
39 curriculum areas of reading, writing, and mathematics to serve as  
40 the basis for assessing the academic achievement of individual

1 pupils and of schools, school districts, and the California  
2 education system. Not later than November 1, 1998, the state  
3 board shall adopt these standards in the core curriculum areas of  
4 history/social science and science.

5 (B) The state board shall adopt statewide performance  
6 standards in the core curriculum areas of reading, writing,  
7 mathematics, history/social science, and science based on the  
8 recommendations made by the Superintendent of Public  
9 Instruction and a contractor or contractors.

10 (C) The state board shall require the contractor or contractors  
11 to submit performance standards to the ~~superintendent~~  
12 *Superintendent* and the state board not later than a specified date  
13 that allows sufficient opportunity for the ~~superintendent~~  
14 *Superintendent* to make a recommendation to the state board and  
15 for the state board to conduct regional hearings prior to the  
16 adoption of the performance standards.

17 (2) (A) The state board may modify any proposed content  
18 standards or performance standards prior to adoption and may  
19 adopt content and performance standards in individual core  
20 curriculum areas as those standards are submitted to the board.  
21 The state performance standards shall be established against  
22 specific grade level benchmarks of academic achievement for  
23 each subject area tested and shall be based on the knowledge and  
24 skills that pupils will need in order to succeed in the  
25 information-based, global economy of the 21st century. These  
26 skills shall not include personal behavioral standards or skills,  
27 including, but not limited to, honesty, sociability, ethics, or  
28 self-esteem. The standards adopted pursuant to this section shall  
29 be for the purpose of guiding state decisions regarding the  
30 development, adoption, and approval of assessment instruments  
31 pursuant to this chapter and does not mandate any actions or  
32 activities by school districts.

33 (B) Because these standards are models, the adoption of these  
34 standards is not subject to the Administrative Procedure Act.  
35 This subparagraph is declaratory of existing law.

36 (3) Before adopting academic content and performance  
37 standards, the state board shall hold regional hearings for the  
38 purpose of giving parents and other members of the public the  
39 opportunity to comment on the proposed standards.

(b) (1) The state board shall require the department to notify publishers of the opportunity to submit, for consideration by the state board pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas of English and language arts, mathematics, and science in grades 9 to 11, inclusive.

(2) ~~The superintendent~~ *Superintendent* shall recommend to the state board which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The state board shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) This subdivision does not prevent the state board from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the state board shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The department, with the approval of the state board, shall periodically contract for a review of the achievement test for conformance with these standards.

(e) After adopting statewide content and performance standards, the state board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(f) The state board shall adopt regulations for the conduct and administration of the testing and assessment program.

(g) The state board shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

(h) This section shall become inoperative on July 1, ~~2007, 2011~~, and, as of January 1, ~~2008, 2012~~, is repealed, unless a later enacted statute, that becomes operative on or before January 1, ~~2008, 2012~~, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 60605 of the Education Code, as added by Section 8 of Chapter 233 of the Statutes of 2004, is repealed.

~~60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the state board shall adopt these standards in the core curriculum areas of history/social science and science.~~

~~(B) The state board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science based on the recommendations made by the superintendent and a contractor or contractors.~~

~~(C) The state board shall require the contractor or contractors to submit performance standards to the superintendent and the state board not later than a specified date that allows sufficient opportunity for the superintendent to make a recommendation to the state board and for the state board to conduct regional hearings prior to the adoption of the performance standards.~~

~~(2) (A) The state board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the state board. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall~~

1 ~~be for the purpose of guiding state decisions regarding the~~  
2 ~~development, adoption, and approval of assessment instruments~~  
3 ~~pursuant to this chapter and shall not be construed to mandate~~  
4 ~~any actions or activities by school districts.~~

5 ~~(B) Because these standards are models, the adoption of these~~  
6 ~~standards is not subject to the Administrative Procedure Act.~~  
7 ~~This subparagraph is declaratory of existing law.~~

8 ~~(3) Before adopting academic content and performance~~  
9 ~~standards, the state board shall hold regional hearings for the~~  
10 ~~purpose of giving parents and other members of the public the~~  
11 ~~opportunity to comment on the proposed standards.~~

12 ~~(b) (1) The state board shall require the department to notify~~  
13 ~~publishers of the opportunity to submit, for consideration by the~~  
14 ~~state board pursuant to Section 60642, tests of achievement that~~  
15 ~~include all of the basic academic skills identified in subdivision~~  
16 ~~(e) of Section 60603 in grades 3 to 8, inclusive, and the core~~  
17 ~~curriculum areas of English and language arts, mathematics, and~~  
18 ~~science in grades 9 to 11, inclusive.~~

19 ~~(2) The superintendent shall recommend to the state board~~  
20 ~~which achievement test to adopt pursuant to subdivision (b) of~~  
21 ~~Section 60642.~~

22 ~~(e) (1) The state board shall ensure that the statewide~~  
23 ~~assessment system adopted pursuant to this chapter yields valid,~~  
24 ~~reliable individual pupil scores and, where applicable, aggregate~~  
25 ~~school scores, school district scores, and statewide scores of~~  
26 ~~pupils and assesses basic academic skills and content standards,~~  
27 ~~including the use of a direct writing assessment or other applied~~  
28 ~~academic skills if deemed valid and reliable and if resources are~~  
29 ~~made available for their use.~~

30 ~~(2) This subdivision does not prevent the state board from~~  
31 ~~developing or adopting an assessment instrument that also~~  
32 ~~contains assessments of basic academic skills.~~

33 ~~(d) To the extent feasible and as otherwise required, the state~~  
34 ~~board shall ensure that assessments developed, or contracted for~~  
35 ~~pursuant to Section 60642.5, by the state are aligned with the~~  
36 ~~statewide content and performance standards adopted pursuant to~~  
37 ~~subdivision (a). The department, with the approval of the state~~  
38 ~~board, shall periodically contract for a review of the achievement~~  
39 ~~test for conformance with these standards.~~

1 ~~(e) After adopting statewide content and performance~~  
2 ~~standards, the state board shall review the existing curriculum~~  
3 ~~frameworks for conformity with the new statewide standards and~~  
4 ~~shall modify the curriculum frameworks where appropriate to~~  
5 ~~bring them into alignment with the standards.~~

6 ~~(f) The state board shall adopt regulations for the conduct and~~  
7 ~~administration of the testing and assessment program.~~

8 ~~(g) The state board shall adopt a regulation for minimum~~  
9 ~~security procedures that test and assessment publishers and~~  
10 ~~school districts must follow to ensure the security and integrity of~~  
11 ~~test and assessment questions and materials.~~

12 ~~(h) This section shall become operative July 1, 2007.~~

13 SEC. 7. Section 60605.6 of the Education Code, as amended  
14 by Section 9 of Chapter 233 of the Statutes of 2004, is amended  
15 to read:

16 60605.6. Subject to the availability of funds in the annual  
17 Budget Act for this purpose, the Superintendent ~~of Public~~  
18 ~~Instruction~~, upon approval of the ~~State Board of Education~~ *state*  
19 *board*, shall contract for the development and distribution of  
20 workbooks, as follows:

21 (a) One workbook to be distributed to all pupils in the 10th  
22 grade. This workbook shall contain information on the  
23 proficiency levels that must be demonstrated by pupils on the  
24 high school exit examination described in Chapter 9  
25 (commencing with Section 60850). The workbook also shall  
26 contain sample questions, with explanations describing how  
27 these sample questions test pupil knowledge of the language arts  
28 and mathematics content standards adopted by the state board  
29 pursuant to Section 60605.

30 (b) Separate workbooks for each of grades 2 to 11, inclusive.  
31 Each pupil in grades 2 to 11, inclusive, who is required to take  
32 the achievement tests described in Section 60642 or Section  
33 60642.5 shall receive a copy of the workbook designed for the  
34 same grade level in which the pupil is enrolled. These workbooks  
35 shall contain material to assist pupils and their parents with  
36 standards-based learning, including the grade appropriate  
37 academic content standards adopted by the state board pursuant  
38 to Section 60605 and sample questions that require knowledge of  
39 these standards to answer. The workbooks also shall describe

1 how the sample questions test knowledge of the state board  
2 adopted academic content standards.

3 (c) This section shall become inoperative on July 1, ~~2007,~~  
4 ~~2011,~~ and, as of January 1, ~~2008,~~ ~~2012,~~ is repealed, unless a later  
5 enacted statute, that becomes operative on or before January 1,  
6 ~~2008,~~ ~~2012,~~ deletes or extends the dates on which it becomes  
7 inoperative and is repealed.

8 SEC. 8. Section 60605.6 of the Education Code, as added by  
9 Section 10 of Chapter 233 of the Statutes of 2004, is repealed.

10 ~~60605.6. Subject to the availability of funds in the annual~~  
11 ~~Budget Act for this purpose, the Superintendent of Public~~  
12 ~~Instruction, upon approval of the State Board of Education, shall~~  
13 ~~contract for the development and distribution of workbooks, as~~  
14 ~~follows:~~

15 ~~(a) One workbook to be distributed to all pupils in the 10th~~  
16 ~~grade. This workbook shall contain information on the~~  
17 ~~proficiency levels that must be demonstrated by pupils on the~~  
18 ~~high school exit examination described in Chapter 9~~  
19 ~~(commencing with Section 60850). The workbook also shall~~  
20 ~~contain sample questions, with explanations describing how~~  
21 ~~these sample questions test pupil knowledge of the language arts~~  
22 ~~and mathematics content standards adopted by the state board~~  
23 ~~pursuant to Section 60605.~~

24 ~~(b) Separate workbooks for each of grades 3 to 11, inclusive.~~  
25 ~~Each pupil in grades 3 to 11, inclusive, who is required to take~~  
26 ~~the achievement tests described in Section 60642 or Section~~  
27 ~~60642.5 shall receive a copy of the workbook designed for the~~  
28 ~~same grade level in which the pupil is enrolled. These workbooks~~  
29 ~~shall contain material to assist pupils and their parents with~~  
30 ~~standards-based learning, including the grade appropriate~~  
31 ~~academic content standards adopted by the state board pursuant~~  
32 ~~to Section 60605 and sample questions that require knowledge of~~  
33 ~~these standards to answer. The workbooks also shall describe~~  
34 ~~how the sample questions test knowledge of the state board~~  
35 ~~adopted academic content standards.~~

36 ~~(c) This section shall become operative July 1, 2007.~~

37 SEC. 9. Section 60606 of the Education Code, as amended by  
38 Section 11 of Chapter 233 of the Statutes of 2004, is amended to  
39 read:

1     60606. (a) After designating a test of academic achievement  
2 for use in grades 2 to 11, inclusive, pursuant to Section 60642, or  
3 adopting an assessment of applied academic skills for use in  
4 grades 4, 5, 8, and 10 pursuant to Section 60605, the ~~State Board~~  
5 ~~of Education~~ *state board* shall submit each of those two  
6 instruments when designated or adopted to the Statewide Pupil  
7 Assessment Review Panel, which is hereby established, for  
8 review by the panel.

9     (b) The panel shall consist of six members. Three members  
10 shall be appointed by the Governor, one member shall be  
11 appointed by the Senate Committee on Rules, one member shall  
12 be appointed by the Speaker of the Assembly, and one member  
13 shall be appointed by the ~~superintendent~~ *Superintendent*. A  
14 majority of the panel shall consist of parents whose children  
15 attend public schools in the state in kindergarten and grades 1 to  
16 12, inclusive.

17     (c) Panel members shall serve two-year terms, without  
18 compensation. No panel member shall serve more than two  
19 consecutive terms.

20     (d) The panel shall review the two instruments specified in  
21 subdivision (a) in order to ensure that the content of the  
22 instruments complies with the requirements of Section 60614.  
23 Notwithstanding any other provision of law, the panel may meet  
24 in closed session with a publisher for the purpose of addressing  
25 questions and clarifying issues that relate to ensuring that the  
26 content of the publisher's test or assessment, as the case may be,  
27 comply with the requirements of Section 60614.

28     (e) The panel shall report its findings and recommendations to  
29 the state board within 10 days of its receipt of each instrument. If  
30 the panel fails to report within the required 10 days, the test or  
31 assessment shall be deemed acceptable to the panel.

32     (f) This section shall become inoperative on July 1, ~~2007;~~  
33 ~~2011~~, and, as of January 1, ~~2008;~~ ~~2012~~, is repealed, unless a later  
34 enacted statute, that becomes operative on or before January 1,  
35 ~~2008;~~ ~~2012~~, deletes or extends the dates on which it becomes  
36 inoperative and is repealed.

37     SEC. 10. Section 60606 of the Education Code, as added by  
38 Section 12 of Chapter 233 of the Statutes of 2004, is repealed.

39     ~~60606. (a) After designating a test of academic achievement~~  
40 ~~for use in grades 3 to 11, inclusive, pursuant to Section 60642, or~~

1 ~~adopting an assessment of applied academic skills for use in~~  
2 ~~grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board~~  
3 ~~of Education shall submit each of those two instruments when~~  
4 ~~designated or adopted to the Statewide Pupil Assessment Review~~  
5 ~~Panel, which is hereby established, for review by the panel.~~

6 ~~(b) The panel shall consist of six members. Three members~~  
7 ~~shall be appointed by the Governor, one member shall be~~  
8 ~~appointed by the Senate Committee on Rules, one member shall~~  
9 ~~be appointed by the Speaker of the Assembly, and one member~~  
10 ~~shall be appointed by the Superintendent of Public Instruction. A~~  
11 ~~majority of the panel shall consist of parents whose children~~  
12 ~~attend public schools in the state in kindergarten and grades 1 to~~  
13 ~~12, inclusive.~~

14 ~~(c) Panel members shall serve two-year terms, without~~  
15 ~~compensation. No panel member shall serve more than two~~  
16 ~~consecutive terms.~~

17 ~~(d) The panel shall review the two instruments specified in~~  
18 ~~subdivision (a) in order to ensure that the content of the~~  
19 ~~instruments complies with the requirements of Section 60614.~~  
20 ~~Notwithstanding any other provision of law, the panel may meet~~  
21 ~~in closed session with a publisher for the purpose of addressing~~  
22 ~~questions and clarifying issues that relate to ensuring that the~~  
23 ~~content of the publisher's test or assessment, as the case may be,~~  
24 ~~comply with the requirements of Section 60614.~~

25 ~~(e) The panel shall report its findings and recommendations to~~  
26 ~~the state board within 10 days of its receipt of each instrument. If~~  
27 ~~the panel fails to report within the required 10 days, the test or~~  
28 ~~assessment shall be deemed acceptable to the panel.~~

29 ~~(f) This section shall become operative July 1, 2007.~~

30 SEC. 11. Section 60611 of the Education Code is amended to  
31 read:

32 60611. (a) A city, county, city and county, district  
33 superintendent of schools, or principal or teacher of any  
34 elementary or secondary school, including a charter school, shall  
35 *not* carry on any program of specific preparation of pupils for the  
36 statewide pupil assessment program or a particular test used  
37 therein.

38 (b) ~~City~~ A city, county, city and county, district superintendent  
39 of schools, principal, *or a* teacher of an elementary ~~and or~~  
40 secondary school, including a charter school, may use

1 instructional materials provided by the department or its agents in  
2 the academic preparation of pupils for the statewide pupil  
3 assessment if those instructional materials are embedded in an  
4 instructional program that is intended to improve pupil learning.

5 SEC. 12. Section 60640 of the Education Code, as amended  
6 by Section 15 of Chapter 233 of the Statutes of 2004, is amended  
7 to read:

8 60640. (a) There is hereby established the Standardized  
9 Testing and Reporting Program, to be known as the STAR  
10 Program.

11 (b) Commencing in the 2004–05 fiscal year and each fiscal  
12 year thereafter, and from the funds available for that purpose,  
13 each school district, charter school, and county office of  
14 education shall administer to each of its pupils in grades 3 and 7  
15 the achievement test designated by the ~~State Board of Education~~  
16 *state board* pursuant to Section 60642 and shall administer to  
17 each of its pupils in grades 2 to 11, inclusive, the standards-based  
18 achievement test provided for in Section 60642.5. The state  
19 board shall establish a testing period to provide that all schools  
20 administer these tests to pupils at approximately the same time  
21 during the instructional year, except as necessary to ensure test  
22 security and to meet the final filing date.

23 (c) The publisher and the school district shall provide two  
24 makeup days for the testing of previously absent pupils within  
25 the testing period established by the state board in subdivision  
26 (b).

27 (d) The governing board of the school district may administer  
28 achievement tests in grades other than those required by  
29 subdivision (b) as it deems appropriate.

30 (e) Pursuant to paragraph (17) of subsection (a) of Section  
31 1412 of Title 20 of the United States Code, individuals with  
32 exceptional needs, as defined in Section 56026, shall be included  
33 in the testing requirement of subdivision (b) with appropriate  
34 accommodations in administration, where necessary, and those  
35 individuals with exceptional needs who are unable to participate  
36 in the testing, even with accommodations, shall be given an  
37 alternate assessment.

38 (f) (1) At the option of the school district, pupils with limited  
39 English proficiency who are enrolled in any of grades 2 to 11,  
40 inclusive, may take a second achievement test in their primary

1 language. Primary language tests administered pursuant to this  
2 subdivision and subdivision (g) shall be subject to the  
3 requirements of subdivision (a) of Section 60641. These primary  
4 language tests shall produce individual pupil scores that are valid  
5 and reliable.

6 (2) Notwithstanding any other law, the state board shall  
7 designate for use, as part of this program, a single primary  
8 language test in each language for which a test is available for  
9 grades 2 to 11, inclusive, pursuant to the process used for  
10 designation of the assessment chosen in the 1997–98 fiscal year,  
11 as specified in Sections 60642 and 60643, as applicable.

12 (3) (A) The department shall use funds made available  
13 pursuant to Title VI of the federal No Child Left Behind Act of  
14 2001 and appropriated by the annual Budget Act for the purpose  
15 of developing and adopting primary language assessments that  
16 are aligned to the state academic content standards. Subject to the  
17 availability of funds, primary language assessments shall be  
18 developed and adopted for reading/language arts and  
19 mathematics in the dominant primary language of  
20 limited-English-proficient pupils. The dominant primary  
21 language shall be determined by the count in the annual language  
22 census of the primary language of each  
23 limited-English-proficient pupil enrolled in the California public  
24 schools.

25 (B) Once a dominant primary language assessment is available  
26 for use for a specific grade level, it shall be administered in place  
27 of the assessment designated pursuant to paragraph (1) for that  
28 grade level.

29 (C) In choosing a contractor to develop a primary language  
30 assessment the ~~State Board of Education~~ *state board* shall  
31 consider the criteria for choosing a contractor or test publisher as  
32 specified by Sections 60642 and 60643, and as specified by  
33 Section 60642.5, as applicable.

34 (D) Subject to the availability of funds, the assessments shall  
35 be developed in grade order starting with the lowest grade  
36 subject to the STAR Program.

37 (E) If the state board contracts for the development of primary  
38 language assessments or test items to augment an existing  
39 assessment, the state shall retain ownership rights to the  
40 assessment and the test items. With the approval of the state

1 board, the department may license the test for use in other states  
2 subject to a compensation agreement approved by the  
3 Department of Finance.

4 (F) On or before January 1, 2006, the department shall submit  
5 to the Legislature a report on the development and  
6 implementation of the initial primary language assessments and  
7 recommendations on the development and implementation of  
8 future assessments and funding requirements.

9 (g) A pupil ~~of identified as~~ limited English ~~proficiency~~  
10 *proficient pursuant to the administration of a test made available*  
11 *pursuant to Section 60810* who is enrolled in any of grades 2 to  
12 11, inclusive, *and who either receives instruction in his or her*  
13 *primary language or has been enrolled in a school in the United*  
14 *States for less than 12 months*, shall be required to take a test in  
15 his or her primary language if a test is available, ~~and if fewer~~  
16 ~~than 12 months have elapsed after his or her initial enrollment in~~  
17 ~~any public or nonpublic school in the state.~~

18 (h) (1) The ~~Superintendent of Public Instruction~~ shall  
19 apportion funds to school districts to enable school districts to  
20 meet the requirements of subdivisions (b), (e), (f), and (g).

21 (2) The state board shall annually establish the amount of  
22 funding to be apportioned to school districts for each test  
23 administered and shall annually establish the amount that each  
24 publisher shall be paid for each test administered under the  
25 agreements required pursuant to Section 60643. The amounts to  
26 be paid to the publishers shall be determined by considering the  
27 cost estimates submitted by each publisher each September and  
28 the amount included in the annual Budget Act, and by making  
29 allowance for the estimated costs to school districts for  
30 compliance with the requirements of subdivisions (b), (e), (f),  
31 and (g).

32 (3) An adjustment to the amount of funding to be apportioned  
33 per test may not be valid without the approval of the Director of  
34 Finance. A request for approval of an adjustment to the amount  
35 of funding to be apportioned per test shall be submitted in writing  
36 to the Director of Finance and the chairpersons of the fiscal  
37 committees of both houses of the Legislature with accompanying  
38 material justifying the proposed adjustment. The Director of  
39 Finance is authorized to approve only those adjustments related  
40 to activities required by statute. The Director of Finance shall

1 approve or disapprove the amount within 30 days of receipt of  
2 the request and shall notify the chairpersons of the fiscal  
3 committees of both houses of the Legislature of the decision.

4 (i) For the purposes of making the computations required by  
5 Section 8 of Article XVI of the California Constitution, the  
6 appropriation for the apportionments made pursuant to paragraph  
7 (1) of subdivision (h), and the payments made to the publishers  
8 under the contracts required pursuant to Section 60643 or  
9 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
10 60605 between the department and the contractor, are “General  
11 Fund revenues appropriated for school districts,” as defined in  
12 subdivision (c) of Section 41202, for the applicable fiscal year,  
13 and included within the “total allocations to school districts and  
14 community college districts from General Fund proceeds of taxes  
15 appropriated pursuant to Article XIII B,” as defined in  
16 subdivision (e) of Section 41202, for that fiscal year.

17 (j) As a condition to receiving an apportionment pursuant to  
18 subdivision (h), a school district shall report to the ~~superintendent~~  
19 *Superintendent* all of the following:

20 (1) The number of pupils enrolled in the school district in  
21 grades 2 to 11, inclusive.

22 (2) The number of pupils to whom an achievement test was  
23 administered in grades 2 to 11, inclusive, in the school district.

24 (3) The number of pupils in paragraph (1) who were exempted  
25 from the test at the request of their parents or guardians.

26 (k) *The Superintendent and the state board are authorized and*  
27 *encouraged to assist postsecondary educational institutions to*  
28 *use the assessment results of the California Standards Tests,*  
29 *including, but not limited to, the augmented California Standards*  
30 *Tests, for academic credit, placement, or admissions processes.*

31 (l) *The Superintendent shall, with the approval of the state*  
32 *board, annually release to the public at least 25 percent of test*  
33 *items from the standards-based achievement test provided for in*  
34 *Section 60642.5 from the test administered in the previous year.*

35 (m) This section shall become inoperative on July 1, ~~2007,~~  
36 ~~2011,~~ and as of January 1, ~~2008,~~ 2012, is repealed, unless a later  
37 enacted statute, that becomes operative on or before January 1,  
38 ~~2008,~~ 2012, deletes or extends the dates on which it becomes  
39 inoperative and is repealed.

1 SEC. 13. Section 60640 of the Education Code, as added by  
2 Section 16 of Chapter 233 of the Statutes of 2004, is repealed.

3 ~~60640. (a) There is hereby established the Standardized~~  
4 ~~Testing and Reporting Program, to be known as the STAR~~  
5 ~~Program.~~

6 ~~(b) Commencing in the 2007-08 fiscal year and each fiscal~~  
7 ~~year thereafter, and from the funds available for that purpose,~~  
8 ~~each school district, charter school, and county office of~~  
9 ~~education shall administer to each of its pupils in grades 3 and 7~~  
10 ~~the achievement test designated by the State Board of Education~~  
11 ~~pursuant to Section 60642 and shall administer to each of its~~  
12 ~~pupils in grades 3 to 11, inclusive, the standards-based~~  
13 ~~achievement test provided for in Section 60642.5. The state~~  
14 ~~board shall establish a testing period to provide that all schools~~  
15 ~~administer these tests to pupils at approximately the same time~~  
16 ~~during the instructional year, except as necessary to ensure test~~  
17 ~~security and to meet the final filing date.~~

18 ~~(c) The publisher and the school district shall provide two~~  
19 ~~makeup days for the testing of previously absent pupils within~~  
20 ~~the testing period established by the state board in subdivision~~  
21 ~~(b).~~

22 ~~(d) The governing board of the school district may administer~~  
23 ~~achievement tests in grades other than those required by~~  
24 ~~subdivision (b) as it deems appropriate.~~

25 ~~(e) Pursuant to paragraph (17) of subsection (a) of Section~~  
26 ~~1412 of Title 20 of the United States Code, individuals with~~  
27 ~~exceptional needs, as defined in Section 56026, shall be included~~  
28 ~~in the testing requirement of subdivision (b) with appropriate~~  
29 ~~accommodations in administration, where necessary, and those~~  
30 ~~individuals with exceptional needs who are unable to participate~~  
31 ~~in the testing, even with accommodations, shall be given an~~  
32 ~~alternate assessment.~~

33 ~~(f) At the option of the school district, a pupil with limited~~  
34 ~~English proficiency who is enrolled in any of grades 3 to 11,~~  
35 ~~inclusive, may take a second achievement test in his or her~~  
36 ~~primary language. Primary language tests administered pursuant~~  
37 ~~to this subdivision and subdivision (g) shall be subject to the~~  
38 ~~requirements of subdivision (a) of Section 60641. These primary~~  
39 ~~language tests shall produce individual pupil scores that are valid~~  
40 ~~and reliable. Notwithstanding any other law, the state board shall~~

1 designate for use, as part of this program, a single primary  
2 language test in each language for which a test is available for  
3 grades 3 to 11, inclusive, pursuant to the process used for  
4 designation of the assessment chosen in the 1997-98 fiscal year,  
5 as specified by Sections 60642 and 60643, and as specified by  
6 Section 60642.5, as applicable.

7 (g) A pupil identified as limited English proficient pursuant to  
8 the administration of a test provided by Section 60810, who is  
9 enrolled in any of grades 3 to 11, inclusive, and has not been  
10 reclassified as proficient in English pursuant to reclassification  
11 procedures required to be developed by Section 313, shall be  
12 required to take a test in his or her primary language if a test is  
13 available and if fewer than 12 months have elapsed after his or  
14 her initial enrollment in any public school in the state.

15 (h) (1) The Superintendent of Public Instruction shall  
16 apportion funds to school districts to enable school districts to  
17 meet the requirements of subdivision (b), the alternative  
18 assessment required by subdivision (c), and subdivisions (f) and  
19 (g).

20 (2) The state board shall annually establish the amount of  
21 funding to be apportioned to school districts for each test  
22 administered and shall annually establish the amount that each  
23 publisher shall be paid for each test administered under the  
24 agreements required pursuant to Section 60643. The amounts to  
25 be paid to the publishers shall be determined by considering the  
26 cost estimates submitted by each publisher each September and  
27 the amount included in the annual Budget Act, and by making  
28 allowance for the estimated costs to school districts for  
29 compliance with the requirements of subdivision (b), the  
30 alternative assessment required by subdivision (c), and  
31 subdivisions (f) and (g).

32 (3) An adjustment to the amount of funding to be apportioned  
33 per test may not be valid without the approval of the Director of  
34 Finance. A request for approval of an adjustment to the amount  
35 of funding to be apportioned per test shall be submitted in writing  
36 to the Director of Finance and the chairpersons of the fiscal  
37 committees of both houses of the Legislature with accompanying  
38 material justifying the proposed adjustment. The Director of  
39 Finance is authorized to approve only those adjustments related  
40 to activities required by statute. The Director of Finance shall

~~1 approve or disapprove the amount within 30 days of receipt of  
2 the request and shall notify the chairpersons of the fiscal  
3 committees of both houses of the Legislature of the decision.~~

~~4 (i) For the purposes of making the computations required by  
5 Section 8 of Article XVI of the California Constitution, the  
6 appropriation for the apportionments made pursuant to paragraph  
7 (1) of subdivision (h), and the payments made to the publishers  
8 under the contracts required pursuant to Section 60643 or  
9 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
10 60605 between the department and the contractor, are "General  
11 Fund revenues appropriated for school districts," as defined in  
12 subdivision (c) of Section 41202, for the applicable fiscal year,  
13 and included within the "total allocations to school districts and  
14 community college districts from General Fund proceeds of taxes  
15 appropriated pursuant to Article XIII B," as defined in  
16 subdivision (e) of Section 41202, for that fiscal year.~~

~~17 (j) As a condition to receiving an apportionment pursuant to  
18 subdivision (h), a school district shall report to the superintendent  
19 all of the following:~~

~~20 (1) The number of pupils enrolled in the school district in  
21 grades 2 to 11, inclusive.~~

~~22 (2) The number of pupils to whom an achievement test was  
23 administered in grades 2 to 11, inclusive, in the school district.~~

~~24 (3) The number of pupils in paragraph (1) who were exempted  
25 from the test at the request of their parents or guardians.~~

~~26 (k) The superintendent and the state board are authorized and  
27 encouraged to assist postsecondary educational institutions to use  
28 the California Standards Tests for academic credit, or placement,  
29 and admissions processes, or both purposes.~~

~~30 (l) The superintendent shall, with the approval of the state  
31 board, annually release to the public at least 25 percent of test  
32 items from the standards-based achievement test provided for in  
33 Section 60642.5 from the test administered in the previous year.~~

~~34 (m) This section shall become operative July 1, 2007.~~

~~35 SEC. 14. Section 60642 of the Education Code is amended to  
36 read:~~

~~37 60642. (a) The Superintendent of Public Instruction and the  
38 State Board of Education *state board* may consider any  
39 evaluations of independent experts who have not been employed  
40 by a test publisher in the preceding 12 months regarding the~~

1 suitability of the achievement tests submitted by publishers as  
2 required by subdivision (b) of Section 60605 for use as part of  
3 the STAR Program established by this article.

4 (b) Based upon a review of the achievement tests submitted  
5 and the recommendation made by the ~~superintendent~~  
6 *Superintendent* pursuant to subdivision (b) of Section 60605, the  
7 state board, in its sole discretion, based on the considerations set  
8 forth in Section 60644, shall designate for use as part of the  
9 STAR Program a single test in grades 3 and 7.

10 (c) The state board shall ensure that the achievement test  
11 designated pursuant to subdivision (b) contains the subject areas  
12 specified in subdivision (c) of Section 60603 for grades 3 and 7.

13 (d) The state board is hereby authorized to designate the  
14 achievement test to be administered pursuant to this article for  
15 more than one academic year subject to the availability of funds.

16 (e) The state board shall minimize, to the extent it deems  
17 feasible, the amount of testing time required by the assessment in  
18 subdivision (b) for those content areas for which there also exists  
19 a standards-based examination as provided for pursuant to  
20 Section 60642.5.

21 (f) This section shall become inoperative on July 1, ~~2007~~,  
22 ~~2011~~, and, as of January 1, ~~2008~~, ~~2012~~, is repealed, unless a later  
23 enacted statute, that becomes operative on or before January 1,  
24 ~~2008~~, ~~2012~~, deletes or extends the dates on which it becomes  
25 inoperative and is repealed.

26 SEC. 15. Section 60643 of the Education Code, as amended  
27 by Section 19 of Chapter 233 of the Statutes of 2004, is amended  
28 to read:

29 60643. (a) To be eligible for consideration under Section  
30 60642 or 60642.5 by the ~~State Board of Education~~ *state board*,  
31 test publishers shall agree in writing each year to meet the  
32 following requirements, as applicable, if selected:

33 (1) Enter into an agreement, pursuant to subdivision (e) or (f),  
34 with the department by October 15.

35 (2) With respect to selection under Section 60642.5, align the  
36 standards-based achievement test provided for in Section  
37 60642.5 to the academically rigorous content and performance  
38 standards adopted by the ~~State Board of Education~~ *state board*.

39 (3) Comply with subdivisions (c) and (d) of Section 60645.

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

(F) Comparison of statewide scores relative to other states.

(6) Provide disaggregated scores, based on limited-English-proficient status and nonlimited-English-proficient status. For purposes of this section, pupils with “nonlimited-English-proficient status” shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same forms and formats listed in paragraph (5).

(7) Provide disaggregated scores by pupil gender and ethnicity and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same forms and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5). This section may not be construed to exclude the scores of special education pupils from any state or federal accountability system.

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the department and the state board in the medium requested by each entity, respectively.

1 (b) It is the intent of the Legislature that the publisher work  
2 with the Superintendent of ~~Public Instruction~~ and the state board  
3 in developing a methodology to disaggregate statewide scores as  
4 required in paragraphs (6) and (7) of subdivision (a), and in  
5 determining which variable indicated on the STAR testing  
6 document shall serve as a proxy for “economically  
7 disadvantaged” status pursuant to paragraph (7).

8 (c) Access to any information about individual pupils or their  
9 families shall be granted to the publisher only for purposes of  
10 correctly associating test results with the pupils who produced  
11 those results or for reporting and disaggregating test results as  
12 required by this section. School districts are prohibited from  
13 excluding a pupil from the test if a parent or parents decline to  
14 disclose income. This chapter does not abridge or deny rights to  
15 confidentiality contained in the Family Educational Rights and  
16 Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable  
17 provisions of state and federal law that protect the confidentiality  
18 of information collected by educational institutions.

19 (d) Notwithstanding any other provision of law, the publisher  
20 of the achievement test designated pursuant to Section 60642, the  
21 publisher of the standards-based achievement test provided for in  
22 Section 60642.5, or any contractor under subdivision (f) shall  
23 comply with all of the conditions and requirements enumerated  
24 in subdivision (a), as applicable, to the satisfaction of the state  
25 board.

26 (e) (1) A publisher may not provide a test described in Section  
27 60642, 60642.5, or 60650 or in subdivision (f) of Section 60640  
28 for use in California public schools, unless the publisher enters  
29 into a written contract with the department as set forth in this  
30 subdivision.

31 (2) The department shall develop, and the state board shall  
32 approve, a contract to be entered into with any publisher pursuant  
33 to paragraph (1). The department may develop the contract  
34 through negotiations with the publisher.

35 (3) For purposes of the contracts authorized pursuant to this  
36 subdivision, the department is exempt from the requirements of  
37 Part 2 (commencing with Section 10100) of Division 2 of the  
38 Public Contract Code and from the requirements of Article 6  
39 (commencing with Section 999) of Chapter 6 of Division 4 of the  
40 Military and Veterans Code.

(4) The contracts shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contracts shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of the contract for any component task that the publisher through its own fault or that of its subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contracts shall establish the process and criteria by which the successful completion of each component task shall be recommended by the department and approved by the state board.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule, that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The contracts shall specify the following component tasks, as applicable, that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (2) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including, but not limited to, all reports specified in this section.

(F) Reporting of test results to the department, including, but not limited to, the electronic files required pursuant to this section.

(G) All other analyses or reports required by the ~~superintendent~~ *Superintendent* to meet the requirements of state and federal law and set forth in the agreement.

(9) The contracts shall specify the specific reports and data files, if any, that are to be provided to school districts by the

1 publisher and the number of copies of each report or file to be  
2 provided.

3 (10) The contracts shall specify the means by which any  
4 delivery date for materials to each school district shall be verified  
5 by the publisher and the school district.

6 (11) School districts may negotiate a separate agreement with  
7 the publisher for any additional materials or services not within  
8 the contracts specified in this subdivision, including, but not  
9 limited to, the administration of the tests to pupils in grade levels  
10 other than grades 2 to 11, inclusive. Any separate agreement is  
11 not within the scope of the contract specified in this subdivision.

12 (f) The department, with approval of the state board, may enter  
13 into a separate contract for the development or administration of  
14 any test authorized pursuant to this part, including, but not  
15 limited to, item development, coordination of tests, assemblage  
16 of tests or test items, scoring, or reporting. The liquidated  
17 damages provision set forth in paragraph (5) of subdivision (e)  
18 shall apply to any contract entered into pursuant to this  
19 subdivision.

20 (g) This section shall become inoperative on July 1, ~~2007;~~  
21 ~~2011~~, and, as of January 1, ~~2008;~~ ~~2012~~, is repealed, unless a later  
22 enacted statute, that becomes operative on or before January 1,  
23 ~~2008;~~ ~~2012~~, deletes or extends the dates on which it becomes  
24 inoperative and is repealed.

25 SEC. 16. Section 60643 of the Education Code, as added by  
26 Section 20 of Chapter 233 of the Statutes of 2004, is repealed.

27 ~~60643. (a) To be eligible for consideration under Section~~  
28 ~~60642 or 60642.5 by the State Board of Education, test~~  
29 ~~publishers shall agree in writing each year to meet the following~~  
30 ~~requirements, as applicable, if selected:~~

31 ~~(1) Enter into an agreement, pursuant to subdivision (e) or (f),~~  
32 ~~with the department by October 15.~~

33 ~~(2) With respect to selection under Section 60642.5, align the~~  
34 ~~standards-based achievement test provided for in Section~~  
35 ~~60642.5 to the academically rigorous content and performance~~  
36 ~~standards adopted by the state board.~~

37 ~~(3) Comply with subdivisions (e) and (d) of Section 60645.~~

38 ~~(4) Provide valid and reliable individual pupil scores only in~~  
39 ~~the content areas specified in subdivision (c) of Section 60642 to~~  
40 ~~parents or guardians, teachers, and school administrators.~~

~~(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:~~

- ~~(A) Grade level.~~
- ~~(B) School level.~~
- ~~(C) District level.~~
- ~~(D) Countywide.~~
- ~~(E) Statewide.~~

~~(F) Comparison of statewide scores relative to other states.~~

~~(6) Provide disaggregated scores, based on limited-English-proficient status and nonlimited-English-proficient status. For purposes of this section, pupils with “nonlimited-English-proficient status” shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same forms and formats listed in paragraph (5).~~

~~(7) Provide disaggregated scores by pupil gender and ethnicity and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same forms and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.~~

~~(8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5). This section may not be construed to exclude the scores of special education pupils from any state or federal accountability system.~~

~~(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the state board and the department in the medium requested by each entity, respectively.~~

~~(b) It is the intent of the Legislature that the publisher work with the superintendent and the state board in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining~~

1 ~~which variable indicated on the STAR testing document shall~~  
2 ~~serve as a proxy for “economically disadvantaged” status~~  
3 ~~pursuant to paragraph (7).~~

4 ~~(e) Access to any information about individual pupils or their~~  
5 ~~families shall be granted to the publisher only for purposes of~~  
6 ~~correctly associating test results with the pupils who produced~~  
7 ~~those results or for reporting and disaggregating test results as~~  
8 ~~required by this section. School districts are prohibited from~~  
9 ~~excluding a pupil from the test if a parent or parents decline to~~  
10 ~~disclose income. This chapter does not abridge or deny rights to~~  
11 ~~confidentiality contained in the Family Educational Rights and~~  
12 ~~Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable~~  
13 ~~provisions of state and federal law that protect the confidentiality~~  
14 ~~of information collected by educational institutions.~~

15 ~~(d) Notwithstanding any other provision of law, the publisher~~  
16 ~~of the achievement test designated pursuant to Section 60642, the~~  
17 ~~publisher of the standards-based achievement test provided for in~~  
18 ~~Section 60642.5, or any contractor under subdivision (f) shall~~  
19 ~~comply with all of the conditions and requirements enumerated~~  
20 ~~in subdivision (a), as applicable, to the satisfaction of the state~~  
21 ~~board.~~

22 ~~(e) (1) A publisher may not provide a test described in Section~~  
23 ~~60642, 60642.5, or 60650 or in subdivision (f) of Section 60640~~  
24 ~~for use in California public schools unless the publisher enters~~  
25 ~~into a written contract with the department as set forth in this~~  
26 ~~subdivision.~~

27 ~~(2) The department shall develop, and the state board shall~~  
28 ~~approve, a contract to be entered into with any publisher pursuant~~  
29 ~~to paragraph (1). The department may develop the contract~~  
30 ~~through negotiations with the publisher.~~

31 ~~(3) For purposes of the contracts authorized pursuant to this~~  
32 ~~subdivision, the department is exempt from the requirements of~~  
33 ~~Part 2 (commencing with Section 10100) of Division 2 of the~~  
34 ~~Public Contract Code and from the requirements of Article 6~~  
35 ~~(commencing with Section 999) of Chapter 6 of Division 4 of the~~  
36 ~~Military and Veterans Code.~~

37 ~~(4) The contracts shall include provisions for progress~~  
38 ~~payments to the publisher for work performed or costs incurred~~  
39 ~~in the performance of the contract. Not less than 10 percent of the~~  
40 ~~amount budgeted for each separate and distinct component task~~

1 provided for in each contract shall be withheld pending final  
2 completion of all component tasks by that publisher. The total  
3 amount withheld pending final completion shall not exceed 10  
4 percent of the total contract price.

5 (5) The contracts shall require liquidated damages to be paid  
6 by the publisher in the amount of up to 10 percent of the total  
7 cost of the contract for any component task that the publisher  
8 through its own fault or that of its subcontractors fails to  
9 substantially perform by the date specified in the agreement.

10 (6) The contracts shall establish the process and criteria by  
11 which the successful completion of each component task shall be  
12 recommended by the department and approved by the state  
13 board.

14 (7) The publishers shall submit, as part of the contract  
15 negotiation process, a proposed budget and invoice schedule, that  
16 includes a detailed listing of the costs for each component task  
17 and the expected date of the invoice for each completed  
18 component task.

19 (8) The contracts shall specify the following component tasks,  
20 as applicable, that are separate and distinct:

21 (A) Development of new tests or test items as required by  
22 paragraph (2) of subdivision (a).

23 (B) Test materials production or publication.

24 (C) Delivery of test materials to school districts.

25 (D) Test processing, scoring, and analyses.

26 (E) Reporting of test results to the school districts, including,  
27 but not limited to, all reports specified in this section.

28 (F) Reporting of test results to the department, including, but  
29 not limited to, the electronic files required pursuant to this  
30 section.

31 (G) All other analyses or reports required by the  
32 superintendent to meet the requirements of state and federal law  
33 and set forth in the agreement.

34 (9) The contracts shall specify the specific reports and data  
35 files, if any, that are to be provided to school districts by the  
36 publisher and the number of copies of each report or file to be  
37 provided.

38 (10) The contracts shall specify the means by which any  
39 delivery date for materials to each school district shall be verified  
40 by the publisher and the school district.

~~(11) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the contracts specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 3 to 11, inclusive. Any separate agreement is not within the scope of the contract specified in this subdivision.~~

~~(f) The department, with approval of the state board, may enter into a separate contract for the development or administration of any test authorized pursuant to this part, including, but not limited to, item development, coordination of tests, assemblage of tests or test items, scoring, or reporting. The liquidated damages provision set forth in paragraph (5) of subdivision (c) shall apply to any contract entered into pursuant to this subdivision.~~

~~(g) This section shall become operative July 1, 2007.~~

SEC. 17. Section 60643.1 of the Education Code, as amended by Section 21 of Chapter 233 of the Statutes of 2004, is amended to read:

60643.1. (a) (1) ~~Commencing in the 1999–2000 school year, and each school year thereafter, the~~ *The* test publisher designated by the ~~State Board of Education~~ *state board* pursuant to Section 60642 shall make available a reading list on the Internet by June 1 of ~~that~~ *each* school year. The reading list shall include an index that correlates ranges of pupil reading scores on the English language arts portion of the achievement test designated pursuant to Section 60642 to titles of materials that would be suitable for pupils in each of grades 2 to 11, inclusive, to read in order to improve their reading skills. This reading list shall include titles of books that allow a pupil to practice reading at his or her current reading level and that will assist the pupil in achieving a higher level of proficiency. To the extent possible, the index shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) ~~Commencing in the 1999–2000 school year, and each~~ *Each* school year ~~thereafter,~~ the test publisher shall make available, for purchase by school districts, a report that provides a numerical distribution of the reading scores of all pupils in California who took the achievement test designated pursuant to Section 60642.

1     (3) ~~Commencing in the 1999–2000 school year, and each~~ *Each*  
2 school year thereafter, the test publisher shall make available, for  
3 purchase by school districts, reading lists that can be distributed  
4 to pupils based on a pupil's age and the ranges of scores on the  
5 English language arts portion of the achievement test designated  
6 pursuant to Section 60642.

7     (4) The requirements of this subdivision shall only become  
8 operative upon a determination by the Director of Finance that  
9 funds are available to make an adjustment pursuant to  
10 subdivision (h) of Section 60640.

11    (b) The state board and the Superintendent ~~of Public~~  
12 ~~Instruction~~ shall jointly certify that the process used by the  
13 publisher to determine the reading levels of the corresponding  
14 reading list pursuant to paragraph (1) of subdivision (a) meets the  
15 following criteria:

16     (1) The process is educationally valid.

17     (2) The process results in a reading list for each reading span  
18 that provides titles at the pupil's current reading level and the  
19 next higher level for challenging practice.

20     (3) The process results in a selection from the universe of titles  
21 from the list developed pursuant to subdivision (d) that matches  
22 each reading level.

23     (4) The process is unbiased in the selection of publishers' titles  
24 from the legal compliance list.

25    (c) The titles listed at each reading level range posted on the  
26 Internet and the reading lists made available to school districts  
27 pursuant to subdivision (a) shall, at a minimum, include all  
28 relevant literature materials approved as of September 1, 1999, as  
29 being legally compliant pursuant to Article 3 (commencing with  
30 Section 60040) of Chapter 1, and the titles listed in all of the  
31 content area reading and literature lists that are developed and  
32 published by the department and that have been determined by  
33 the department to meet the relevant reading level as certified  
34 pursuant to subdivision (b).

35    (d) By imposing the requirements of this section on publishers,  
36 it is not the intent of the Legislature to unfairly disadvantage any  
37 publisher who has otherwise met the requirements of this section  
38 or of Article 3 (commencing with Section 60040) of Chapter 1 of  
39 Part 33.

(e) This section shall become inoperative on July 1, ~~2007, 2011~~, and, as of January 1, ~~2008, 2012~~, is repealed, unless a later enacted statute, that becomes operative on or before January 1, ~~2008, 2012~~, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 18. Section 60643.1 of the Education Code, as added by Section 22 of Chapter 233 of the Statutes of 2004, is repealed.

~~60643.1. (a) (1) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60642 shall make available a reading list on the Internet by June 1 of that school year. The reading list shall include an index that correlates ranges of pupil reading scores on the English language arts portion of the achievement test designated pursuant to Section 60642 to titles of materials that would be suitable for pupils in each of grades 3 to 11, inclusive, to read in order to improve their reading skills. This reading list shall include titles of books that allow a pupil to practice reading at his or her current reading level and that will assist the pupil in achieving a higher level of proficiency. To the extent possible, the index shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.~~

~~(2) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, a report that provides a numerical distribution of the reading scores of all pupils in California who took the achievement test designated pursuant to Section 60642.~~

~~(3) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, reading lists that can be distributed to pupils based on a pupil's age and the ranges of scores on the English language arts portion of the achievement test designated pursuant to Section 60642.~~

~~(4) The requirements of this subdivision shall only become operative upon a determination by the Director of Finance that funds are available to make an adjustment pursuant to subdivision (h) of Section 60640.~~

~~(b) The state board and the Superintendent of Public Instruction shall jointly certify that the process used by the~~

~~1 publisher to determine the reading levels of the corresponding  
2 reading list pursuant to paragraph (1) of subdivision (a) meets the  
3 following criteria:~~

~~4 (1) The process is educationally valid.~~

~~5 (2) The process results in a reading list for each reading span  
6 that provides titles at the pupil's current reading level and the  
7 next higher level for challenging practice.~~

~~8 (3) The process results in a selection from the universe of titles  
9 from the list developed pursuant to subdivision (d) that matches  
10 each reading level.~~

~~11 (4) The process is unbiased in the selection of publishers' titles  
12 from the legal compliance list.~~

~~13 (e) The titles listed at each reading level range posted on the  
14 Internet and the reading lists made available to school districts  
15 pursuant to subdivision (a) shall, at a minimum, include all  
16 relevant literature materials approved as of September 1, 1999, as  
17 being legally compliant pursuant to Article 3 (commencing with  
18 Section 60040) of Chapter 1, and the titles listed in all of the  
19 content area reading and literature lists that are developed and  
20 published by the department and that have been determined by  
21 the department to meet the relevant reading level as certified  
22 pursuant to subdivision (b).~~

~~23 (d) By imposing the requirements of this section on publishers,  
24 it is not the intent of the Legislature to unfairly disadvantage any  
25 publisher who has otherwise met the requirements of this section  
26 or of Article 3 (commencing with Section 60040) of Chapter 1 of  
27 Part 33.~~

~~28 (e) This section shall become operative July 1, 2007.~~

~~29 SEC. 19. The sum of two million two hundred eighty-five  
30 thousand dollars (\$2,285,000) is hereby reappropriated from the  
31 Proposition 98 Reversion Account to the State Department of  
32 Education for the Standardized Testing and Reporting Program.  
33 These funds shall be used to cover costs incurred during the  
34 2004-05 fiscal year to maintain and score the direct writing  
35 assessment for grades 4 and 7 for the program funded by  
36 Schedule 3 of Item 6110-113-0001 of Section 2.00 of the Budget  
37 Act of 2004 (Chapter 208, Statutes of 2004).~~

~~38 SEC. 20. If the Commission on State Mandates determines  
39 that this act contains costs mandated by the state, reimbursement  
40 to local agencies and school districts for those costs shall be~~

1 made pursuant to Part 7 (commencing with Section 17500) of  
2 Division 4 of Title 2 of the Government Code.

3 SEC. 21. This act is an urgency statute necessary for the  
4 immediate preservation of the public peace, health, or safety  
5 within the meaning of Article IV of the Constitution and shall go  
6 into immediate effect. The facts constituting the necessity are:

7 In order to ensure that the pupil testing programs affected by  
8 this act are properly implemented, pursuant to changes made by  
9 this act, it is necessary that this act take effect immediately.

O